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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,218	06/01/2006	Erik Houbolt	NL03 1455 US1	1649

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EXAMINER	
PRONE, JASON D	

ART UNIT	PAPER NUMBER
3724	

MAIL DATE	DELIVERY MODE
11/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,218	HOUBOLT ET AL.	
	Examiner	Art Unit	
	Jason Daniel Prone	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-6 and 8-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4-6 and 8-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 August 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. It is once again recommended that the specification be amended to include the section titles, however, it is noted that these title are not required as stated by applicant.

Claim Objections

2. Claims 9 and 16 are objected to because of the following informalities: On line 2 of claim 9, the word "parallel" should be deleted. On line 3 of claim 16, the phrase "skin stretching element" should be replaced with "skin stretching device".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. On page 5 lines 3-6, the phrase "when a user moves the shaving head in the cutting direction 16, roller 32 is driven by the electromotor to rotate in the sense of rotation 34 and with a rotational speed that is higher that the rotational speed that would result from the movement of the shaving head 8 over the skin" is unclear. It is noted that shaving speeds vary during a shaving

process, therefore, the "rotational speed" resulting from the movement of the shaving head is not constant. Meaning that there are an infinite number of speeds. Some people shave extremely slow while others shave extremely fast. If the rotational speed of the driven roller is always higher than the speed that would result from shaving, the driven roller must be driven faster than any possible speed at any given time of shaving. The issue is the claim discloses "a rotational speed of the actively driven roller is higher than the rotational speed that would result from the movement of the shaving" however the rotational speed that would result from the movement of the shaving could be any speed because people shave at different speed and different areas require different shaving speeds. Basically it is assumed that the rotational speed of the actively driven roller has a speed limit and it is possible that the user can shave a speed that would make the speed limit less than the speed that would result from the movement of the shaving.

5. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. On page 3 lines 1-3, the phrase "the optimal position of the pivot axis depends on the friction between skin and guard means, the friction between skin and actively driveable skin stretching means as well as the traction of the actively driveable skin stretching means" is not always correct. It is well known that everybody does not have the same facial features thereby creating a different

friction between the skin and other objects (i.e. coarseness of hair, dry skin, oily skin, etc.). If the friction and pivot point is determined on person "A" with a moderately full light facial hair with oily skin, the pivot point would not be correct for person "B" with an extremely full and coarse facial hair with extremely dry skin or person "C" with patchy facial hair with normal skin. Basically, since the pivot point is not adjustable, claim 17 can not be true all of the time because the friction used to determine the pivot position is not a relative friction for all users. It is also unclear how the friction would have any bearing on the forces applied to the stretching device and the guard.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4-6, 8-10, and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Avidor (5,933,960).

With regards to claims1 and 17, Avidor discloses the same invention including at least one cutting blade (Fig. 16), an actively drivable skin stretching device arranged behind the cutting blade relative to a cutting direction (122), a guard arranged in front of the cutting blade (104), a pivot axis between the shaving head and a handle attached to the shaving head (132), the pivot axis being arranged at least essentially parallel to the cutting blade (132), and the pivot axis is arranged such that a force component applied

perpendicularly to the cutting direction is distributed at least essentially in equal parts to the stretching and guard means (132).

With regards to claims 2 and 4-6, Avidor discloses at least one spring element (150), the guard capable of performing a hair erecting/lubrication function (104), and the guard comprises at least one strip arranged parallel to the cutting blade (104).

With regards to claims 8-10, Avidor discloses the pivot axis is arranged closer to the guard (Fig. 17), the pivot having a coupling arranged to couple the shaving head to the handle (132), and the stretching device has at least one actively drivable roller (122).

With regards to claims 12-16, Avidor discloses the stretching device is driven via a movement over skin (122), the stretching device is driveable by an electromotor (column 10 lines 20-23), the motor is associated with the shaving head/handle (column 10 lines 20-23 and Fig. 13), and a second coupling for coupling the stretching device to the motor (column 10 lines 20-23).

8. It is to be noted that claim 11 has not been rejected over prior art. It may or may not be readable over the prior art but cannot be determined at this time in view of the issues under 35 USC § 112.

Response to Arguments

9. Applicant's arguments filed 05 August 2008 have been fully considered but they are not persuasive. The examiner has tried to better explain the 112 issues with regard to claim 11. Basically, it is unclear how the speed of the driven roller can always be higher than the speed that would result during shaving when any speed could be the

result. Claim 17 incorporate similar issues in that there are an infinite number of frictions and the position of the pivot would not be true for every user.

In Avidor, it is clear that both items 122 and 104 would have a perpendicular force applied to them during shaving and it would also be understood that these forces may not be equal but definitely could be considered "essentially equal" as claimed. Essentially or basically equal could be any two numbers. For example, A=1, B=2, C=10, and D= 1,000,000. When comparing A, B, and C, items A and B could be essentially equal and one could make the case that A or B is not essentially equal to C. However, when comparing letters A, C, and D, items A and C could be considered essentially equal. Without further structure detailing what is meant by “essentially equal”, any numbers remotely close could be considered essentially equal. Also, clearly pivot 132 is essentially in the middle and would therefore distribute forces essentially equally to both 122 and 104.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gesler, Benvenuti, Ostrowski, Orloff, and Parker et al.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Daniel Prone whose telephone number is (571)272-4513. The examiner can normally be reached on 7:30-5:00 (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

06 November 2008

/Jason Daniel Prone/

Primary Examiner, Art Unit 3724